



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Mar-06

DUKE W. YEE
CARSTENS, YEE & CAHOON, LLP
P.O. BOX 802334
DALLAS TX 75380

COPY MAILED

MAR 24 2006

OFFICE OF PETITIONS

In re Application of :
Boies et al. : DECISION ON PETITION TO
Application No. 09/884,580 : WITHDRAW HOLDING OF
Filed: 19 June, 2001 : ABANDONMENT
Atty Docket No. YOR920000496US1 :

This is a decision on the renewed petition filed on 21 February, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 9 December, 2004. Notice of Abandonment was mailed on 29 June, 2005.

Petitioners again assert that an amendment was timely filed. In support, petitioners supplied a copy of an amendment, the first page of which contains a Certificate of Facsimile Transmission dated 9 March, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge, or to the satisfaction of the Director, of transmitting the **original** response on the date indicated on the Certificate

of Transmission (see 37 CFR 1.8 and MPEP 512). If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioners state that the individual who signed the certificate of transmission, A.J. Jimenez, no longer is employed by counsel and cannot be located. Petitioners have provided, however, a copy of a mail log as well as a declaration by counsel's legal assistant attesting to the procedure used for sending correspondence to the Office by facsimile. As such, petitioners have demonstrated to the satisfaction of the Director that the response was timely submitted.

As petitioners have provided convincing evidence that a reply to the Office communication requiring restriction or election was transmitted to the USPTO on 9 March, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The change of correspondence address filed on 21 February, 2006, cannot be accepted because it is not signed by an attorney of record. A copy of this decision is being forwarded to the address in the petition. All future correspondence will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 3629 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Duke W. Yee
Yee & Associates, P.C.
PO Box 802333
Dallas TX 75380